

**STATE OF INDIANA
CIVIL RIGHTS COMMISSION**

KATHY LYNN HOOD,

Complainant,

vs.

DOCKET NO. EMha92050725

**EXIDE CORPORATION
(formerly EVANITE FIBER
CORPORATION),**

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

On November 14, 2002, Robert D. Lange, Administrative Law Judge (ALJ) for the Indiana Civil Rights Commission (ICRC), entered his Proposed Findings Of Fact, Conclusions Of Law, And Order (the proposed decision).

No objections have been filed to the ICRC's adoption of the proposed decision.

Having carefully considered the foregoing and being duly advised in the premises, the ICRC hereby adopts as its own the findings of fact, conclusions of law, and order proposed by the ALJ in the proposed decision, a copy of which is attached hereto and incorporated herein by reference.

INDIANA CIVIL RIGHTS COMMISSION

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

Dated: 31 January 2003

To be served by first class mail on the following parties and attorneys of record:

Kathy Lynn Hood
4630 Baker Hollow Road
Depauw, IN 47115

Exide Corporation (formerly Evanite Fiber Corporation)
c/o Barbara Hatcher, Esq.
13000 Deerfield Parkway, Building 200
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SMITH & SMITH
BY: James U. Smith, III
Attorneys for Respondent Exide Corporation (formerly Evanite Fiber Corporation)
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and to be personally served on the following attorney of record:

Robin Johnson, Staff Attorney
Indiana Civil Rights Commission
Attorney for Complainant Kathy Lynn Hood
Indiana Government Center North
100 North Senate Avenue, Room N103
Indianapolis, IN 46204-2255

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**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER**

On May 8, 1997, Respondent, Exide Corporation (formerly Evanite Fiber Corporation) (Exide), filed its Motion For Summary Judgment and its Memorandum In Support Of Motion For Summary Judgment. On June 23, 1997, Complainant, Kathy Lynn Hood (Hood), filed Hood's Motion In Opposition To Exide Corporation's Motion For Summary Judgment and Hood's Memorandum Of Law In Opposition To Exide Corporation's Motion For Summary Judgment.

Having carefully considered the foregoing and being duly advised in the premises, the undersigned Administrative Law Judge (ALJ) for the Indiana Civil Rights Commission (ICRC) proposes that the ICRC enter the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. Hood filed this complaint with the ICRC on April 30, 1992, alleging that Exide unlawfully discriminated against her because of a disability, a visual impairment, by precluding her from wearing contact lenses. Hood claims that her

vision deteriorates when she is wearing glasses but does not deteriorate when she is wearing contact lenses. To hold her job, Hood took sick and vacation time and underwent major eye surgery, not covered by insurance.

2. Hood, at the time of the incidents giving rise to this complaint, suffered from extreme myopia. Uncorrected, Hood's vision was blurred and unfocused and she was unable to perform routine daily tasks such as cooking, cleaning, sewing, driving, reading, caring for her children, and watching television.

3. Hood wore extended wear contact lenses. Thus corrected, Hood was a functional adult, both at home and at work.

4. Hood's visual impairment, when considered in light of mitigating measures (specifically, the use of extended wear contact lenses), did not substantially limit Hood in the performance of any major life activities.

5. Any Conclusion Of Law that should have been deemed a Finding Of Fact is hereby adopted as such.

CONCLUSIONS OF LAW

1. The ICRC has jurisdiction over the subject matter and the parties.

2. The events giving rise to this complaint all occurred before the effective date of the Hoosiers with Disabilities Act, IC 22-9-5 (the HDA). As a result, this case is governed by the provisions of the Indiana Civil Rights Law, IC 22-9-1 (the ICRL).

3. What constitutes an unlawful discriminatory practice is set out in the following provision of the ICRL:

(l) "Discriminatory practice" means:

(1) the exclusion of a person because of ... disability ...;

(2) a system that excludes persons from equal opportunities because of ... disability ...;

...

Every discriminatory practice relating to ... employment ... shall be considered unlawful unless it is specifically exempted by this chapter.

IC 22-9-1-3(l).

4. The term “disability” is defined in the following subsection of the ICRL:
(r) “Disabled” or “disability” means the physical or mental condition of a person that constitutes a substantial disability. In reference to employment, under this chapter, “disabled or disability” also means the physical or mental condition of a person that constitutes a substantial disability unrelated to the person’s ability to engage in a particular occupation.
IC 22-9-1-3(r).
5. In a case under a similar federal statute, the Americans with Disabilities Act, 42 U.S.C. §12101 *et. seq.*(the ADA), the Supreme Court decided that in determining whether a person is disabled under the ADA, a court must consider corrective measures such as eyeglasses or contact lenses. *Sutton v. United Air Lines, Inc.*, 527 U.S. 471, 9 AD Cases 673 (1999).
6. Considering Hood’s visual impairment in light of corrective measures, her condition does not constitute a substantial disability. For that reason, Hood is not “disabled” as that term is defined in section 3(r) of the ICRL.
7. Administrative review of this proposed decision may be obtained by the filing of a writing specifying with reasonable particularity each basis for each objection within 15 days after service of this proposed decision. IC 4-21.5-3-29(d).
8. Any Finding Of Fact that should have been deemed a Conclusion Of Law is hereby adopted as such.

ORDER

1. Exide’s Motion For Summary Judgment is **GRANTED**.
2. Hood’s complaint is **DISMISSED**.

Dated: 14 November 2002

Robert D. Lange
Administrative Law Judge

To be served by first class mail this 14th day of November, 2002 on the following parties and attorneys of record:

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4630 Baker Hollow Road
Depauw, IN 47115

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